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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/022,436

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Timothy B. Cowles

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7590

08/18/2006

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EXAMINER

TU, CHRISTINE TRINH LE

ART UNIT

PAPER NUMBER

2138

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,436

Applicant(s)

COWLES ET AL.

Examiner

Christine T. Tu

Art Unit

2138

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 64 and 65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 64 and 65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 and 64-65 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,918,072.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent substantially teaches the claimed invention. The patent does not explicitly disclose the feature of testing the memory die. Patent '072, however, teaches the feature of checking a group of memory cells on said memory chip for a defect (column 16 lines 34-35). It is be obvious for a person of ordinary skill in the art at the time the invention was made to realize that the checking feature (for checking a group of memory cells on a memory chip for a defect) of Patent '072 would have been a process of testing a memory die. One having ordinary skill in the art would be

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motivated to realize so because in order to test a memory die/chip, memory cells on the die/chip would have been checked to determine whether any defective(s) on any memory cell.

3. Claims 1 and 64-65 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 56 of U.S. Patent No. 6,918,072.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent substantially teaches the claimed invention. The patent does not explicitly disclose the feature of testing the memory die. Patent '072, however, teaches the feature of identifying a defective memory cell on the chip (column 21 lines 24-25). It is be obvious for a person of ordinary skill in the art at the time the invention was made to realize that the identifying feature (for identifying a defective memory cell) of Patent '072 would have been a process of testing a memory die. One having ordinary skill in the art would be motivated to realize so because in order to test a memory die/chip, each memory cell on the die/chip would have been checked to identify/determine whether any defective(s) on that memory cell.

Claim Rejections - 35 USC § 112

4. Claim 64 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 64:

At line 6, the term "the field" lacks antecedent basis. It is also not clear what environment should "the field" be.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

6. Claims 1-6 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauch (6,550,023).

Claim 1:

Brauch discloses the invention substantially as claimed. Brauch teaches (figure 1) that a chip (2) comprises a memory (4), a BIST functional block (6) and bitmap storage (18). The BIST functional block (6) is firmware that controls the execution of on-chip memory tests to detect and locate defects in the memory (4). When a corrupt cell is detected, the bitmap storage (18) stores comparison mismatch information comprising a complete bitmap of the precise location of failed cells in the memory (4) (figure 1, column 3 lines 15-48).

Brauch does not explicitly teach that the testing and storing acts are performed outside of a production facility of a die. It would have been obvious to one having ordinary skill in the art at the time the invention was made to realize that Brauch's BIST's on-chip memory testing and storing would have been performed outside of a production/manufacturing facility of a die. One having ordinary skill in the art would be motivated to realize so because Brauch teaches that the BIST's on-chip memory testing and storing is performed upon power up and in real-time (column 1 lines 43-60, column 5 line 62-column 6 line 8).

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Claims 2, and 4-6

Brauch does not explicitly teach that the die is part of an electronic system, a computer system or a processing system. Brauch teaches that a test of an on-chip cache is done when turning on a combination of a microprocessor and its on-chip cache (column 6 lines 16-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to realize that Brauch's chip/IC (2) would have been a part of an electronic system, a computer system or a processing system. One having ordinary skill in the art would be motivated to realize so because Brauch's chip/IC is part of the combination (of the microprocessor and its on-chip cache) (as taught by Brauch [column 6 line 19]).

Claim 3:

Brauch's memory test is perform upon the power is up (column 1 lines 43-60).

Claim 64:

Brauch discloses the invention substantially as claimed. Brauch teaches (figure 1) that a chip (2) comprises a memory (4), a BIST functional block (6) and bitmap storage (18). The BIST functional block (6) is firmware that controls the execution of on-chip memory tests to detect and locate defects in the memory (4). When a corrupt cell is detected, the bitmap storage (18) stores comparison mismatch information comprising a complete bitmap of the precise location of failed cells in the memory (4) (figure 1, column 3 lines 15-48).

Brauch does not explicitly teach that the testing and storing acts are performed in a field. It would have been obvious to one having ordinary skill in the art at the time the invention was made to realize that BIST's on-chip memory testing and storing (taught by Brauch) would have been performed in real time. One having ordinary skill in the art would be motivated to realize so because that recited "the field" is not explicitly recited with any particular field or environment.

Claim 65:

Brauch discloses the invention substantially as claimed. Brauch teaches (figure 1) that a chip/IC (2) comprises a memory (4), a BIST functional block (6) and bitmap storage (18). The BIST functional block (6) is firmware that controls the execution of on-chip memory tests to detect and locate defects in the memory (4). When a corrupt cell is detected, the bitmap storage (18) stores comparison mismatch information comprising a complete bitmap of the precise location of failed cells in the memory (4) (figure 1, column 3 lines 15-48).

Brauch does not explicitly teach that the die is part of a processing system. Brauch teaches that a test of an on-chip cache is done when turning on a combination of a microprocessor and its on-chip cache (column 6 lines 16-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to realize that Brauch's chip/IC (2) would have been a part of a processing system. One having ordinary skill in the art would be motivated to realize so because Brauch's chip/IC is part of the combination (of the microprocessor and its on-chip cache) (as taught by Brauch [column 6 line 19]).

Response to Arguments

7. Applicant's arguments with respect to claims 1, 64 and 65 have been considered but are moot in view of the new ground(s) of rejection.

For claim 1, applicants argue that Wada does not teach or suggest the limitation of performing a defect analysis off the mass production line. However, such a limitation is now taught by Brauch as explained in the art rejection (¶ 6 above).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine T. Tu whose telephone number is (571)272-3831. The examiner can normally be reached on Mon-Thur. 8:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571)272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Christine T. Tu
Primary Examiner
Art Unit 2138

August 11, 2006